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14 ACTION NETWORK, INC.; MEREDITH
15 ATTWELL BAKER

16 [Additional counsel listed on next page.]

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

NATIONAL ASSOCIATION OF
AFRICAN-AMERICAN OWNED
MEDIA, a California limited liability
company; and ENTERTAINMENT
STUDIOS NETWORKS, INC., a
California corporation,

Plaintiffs,

v.

COMCAST CORPORATION, a
Pennsylvania corporation; TIME
WARNER CABLE INC., a Delaware
corporation; NATIONAL
ASSOCIATION FOR THE
ADVANCEMENT OF COLORED
PEOPLE, a New York corporation;
NATIONAL URBAN LEAGUE, INC.,
a New York corporation; AL
SHARPTON, an individual;
NATIONAL ACTION NETWORK,
INC., a New York corporation;
MEREDITH ATTWELL BAKER, an
individual; and DOES 1 through 10,
inclusive,

Defendants.

CASE NO. 2:15-cv-01239-TJH-MAN

**NOTICE OF MOTION AND MOTION
TO DISMISS PLAINTIFFS'
COMPLAINT BY DEFENDANTS
COMCAST CORPORATION,
NATIONAL ASSOCIATION FOR
THE ADVANCEMENT OF
COLORED PEOPLE, NATIONAL
URBAN LEAGUE, INC., AL
SHARPTON, NATIONAL ACTION
NETWORK, INC., AND MEREDITH
ATTWELL BAKER**

Judge: Hon. Terry J. Hatter, Jr.
Hearing Date: June 8, 2015
Time: UNDER SUBMISSION
Courtroom: 17

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20 NATIONAL URBAN LEAGUE, INC.

1 PLEASE TAKE NOTICE THAT, on June 8, 2015, or as soon thereafter as the
2 matter may be heard before the Honorable Terry J. Hatter, Jr. in Courtroom 17 of the
3 United States District Court, Central District of California, located at 312 North Spring
4 Street in Los Angeles, California, Defendants Comcast Corporation, National
5 Association for the Advancement of Colored People (“NAACP”), National Urban
6 League, Inc. (“NUL”), Al Sharpton, National Action Network, Inc. (“NAN”), and
7 Meredith Attwell Baker will and hereby do move this Court for an order dismissing
8 Plaintiffs’ Complaint in its entirety, with prejudice.

9 This Motion seeks dismissal of Plaintiffs’ Complaint in its entirety as to
10 Defendants NUL, the NAACP, NAN, Rev. Sharpton, and Ms. Baker, pursuant to
11 Federal Rule of Civil Procedure 12(b)(2), because the Complaint fails to establish this
12 Court’s personal jurisdiction over those Defendants. None of these Defendants is at
13 home in California, and nothing about these Defendants’ California contacts—to the
14 extent they exist at all—has any relation to this suit.

15 This Motion also seeks dismissal of all claims against Ms. Baker because she is
16 protected by absolute and qualified immunity. The Complaint’s allegations against
17 Ms. Baker relate entirely to her vote, while serving as a Commissioner on the Federal
18 Communications Commission, to approve an acquisition between Comcast and
19 NBCUniversal. Ms. Baker is immune from suit for actions in her capacity as a
20 government officer exercising a judicial function.

21 Finally, with respect to all moving Defendants, this Motion seeks dismissal of
22 the Complaint, pursuant to Rule 12(b)(6), because Plaintiffs have failed to state a claim
23 upon which relief can be granted. Plaintiffs have not provided sufficient factual
24 allegations to establish that any Defendant engaged in intentional racial discrimination
25 or conspired to intentionally discriminate on the basis of race. The few factual details
26 in the Complaint have an obvious alternative explanation that has nothing to do with
27 race: that Comcast refused to agree to the carriage requests of Plaintiff Entertainment
28 Studios Networks, Inc. (“ESN”) for legitimate business reasons, including the limited

1 bandwidth that Comcast has to add new programming content and the limited
2 consumer demand for ESN's programming. Plaintiffs rely on a Memorandum of
3 Understanding ("MOU") that Defendants signed as evidence of discrimination, but the
4 MOU, of which this Court can take judicial notice, on its face offers *advantages*, not
5 disadvantages, to businesses owned by African Americans.

6 This Motion is based upon this Notice of Motion and Motion, the attached
7 Memorandum of Points and Authorities, the papers filed in this case, any oral
8 argument that may be heard by the Court, and any other matters that the Court deems
9 appropriate.

10 This Motion is made following conference of counsel pursuant to Local Rule
11 7-3, which took place on April 9, 2015.

12 DATE: April 24, 2015 GIBSON, DUNN & CRUTCHER LLP

13 By: /s/ Miguel A. Estrada
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